# OECD TAX TALKS

## CENTRE FOR TAX POLICY AND ADMINISTRATION

19 July 2023
15:00-16:00 (CEST)

OECD

# Speakers

**Manal Corwin**
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**Eric Robert**
Senior Tax Advisor

**David Bradbury**
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**Jesse Eggert**
Senior Advisor to the Director

**Ervice Tchouata**
Senior Tax Policy Advisor

**Achim Pross**
Deputy Director, OECD Centre for Tax Policy and Administration

**Félicie Bonnet**
Acting Head of Unit

**Debra Evans**
Tax Policy Advisor

# Agenda

- **Overview of recent developments**
  - Inclusive Framework 15th Plenary Meeting
  - Two-Pillar Solution published reports & deliverables
  - G20 Finance Minister & Central Bank Governor meeting
- **Outcome Statement on the Two-Pillar Solution**
  - Amount A & multilateral convention
  - Amount B
  - Subject-To-Tax Rule
  - Implementation Support
- **Other Two-Pillar Solution updates**
- **A look ahead**
- **Q&A**

# OVERVIEW OF RECENT DEVELOPMENTS

# 15th meeting of the Inclusive Framework on BEPS

# 15th meeting of the Inclusive Framework on BEPS

- Held on 10-12 July 2023
- **Outcome Statement on the Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy**
  - Approved by 138 Inclusive Framework members
  - Summarises the package of deliverables that have been developed to address the remaining elements of the Two-Pillar Solution
  - A few small issues remain to be resolved on the MLC in the coming days & weeks
  - Extension of “standstill agreement” to 31 December 2024, or the entry into force of the MLC if earlier, provided the signature of the MLC has made sufficient progress by the end of the year.

# Additional public releases relating to Two-Pillar Solution

- Public consultation document on Amount B
- Report on the Subject-to-Tax Rule, including model treaty provision & commentary
- GloBE Information Return
- GloBE Administrative Guidance

# G20 reports & deliverables

**OECD Secretary-General Report to G20**

- A. Outcome Statement
- B. Roadmap on Developing Countries and International Taxation Update 2023
- C. Enhancing International Tax Transparency on Real Estate
- D. Update on 2021 Strategy on Unleashing the Potential of AEOI for Developing Countries
- E. Facilitating the Use of Tax-Treaty-Exchanged Information for Non-Tax Purposes

- Work on Indirect Tax
- Tax and Development & Capacity Building
- Tax Transparency
- Tax and Crime
- Tax Administration
- Tax Policy and Climate Change
- BEPS Project Implementation

# G20 FMCBG

## *July 2023 - India*

*"We reaffirm our commitment to continue cooperation towards a globally fair, sustainable and modern international tax system appropriate to the needs of the 21st century. We welcome the delivery of a text of a Multilateral Convention (MLC) on Amount A, significant progress of work on Amount B and the completion of the work on the development of the Subject to Tax Rule (STTR) and its implementation framework as set out in the July 2023 Outcome Statement of the OECD / G20 Inclusive Framework on BEPS ("Inclusive Framework"). We call on the Inclusive Framework to swiftly resolve the few pending issues relating to the MLC with a view to prepare the MLC for signature in the second half of 2023 and complete the work on Amount B by end of 2023. We welcome the steps taken by various countries to implement the Global Anti-Base Erosion (GloBE) Rules as a common approach. We recognise the need for coordinated efforts towards capacity building to implement the two-pillar international tax package effectively and in particular, welcome a plan for additional support and technical assistance for developing countries…"*

# G20 FMCBG
*July 2023 - India*

*"…We welcome the launch of the pilot programme of the South Asia Academy in India for tax and financial crime investigation in collaboration with OECD. We note the 2023 update of the G20/OECD Roadmap on Developing Countries and International Taxation. We note the 'Update on the implementation of the 2021 Strategy on Unleashing the Potential of Automatic Exchange of Information for Developing Countries' by the Global Forum on Transparency and Exchange of Information for Tax Purposes ("Global Forum"). We call for the swift implementation of the Crypto-Asset Reporting Framework ("CARF") and amendments to the CRS. We ask the Global Forum to identify an appropriate and coordinated timeline to commence exchanges by relevant jurisdictions, noting the aspiration of a significant number of these jurisdictions to start CARF exchanges by 2027, and to report to our future meetings on the progress of its work. We note the OECD report on 'Enhancing International Tax Transparency on Real Estate' and the Global Forum report on 'Facilitating the Use of Tax-Treaty-Exchanged Information for Non-Tax Purposes'. We note the discussions held at the G20 High-Level Tax Symposium on Combatting Tax Evasion, Corruption and Money Laundering."*

# Developments in tax transparency

- The OECD has completed the technical work on the international exchange architecture of the Crypto-Asset Reporting Framework (CARF) and the amended Common Reporting Standard (CRS)
- Strong results from tax transparency frameworks:
  - Since 2009, close to EUR 126 billion of additional revenues have been identified governments (and over EUR 41 billion by developing countries)
  - Continued increase in jurisdictions participating in AEOI and the amount of information exchanged; in 2022, it covered information on over 123 million financial accounts worldwide and total assets of above EUR 12 trillion.
- Recent reports:
  - Updates on the Asia Initiative, the Punta del Este Declaration and the Africa Initiative
  - Enhancing International Tax Transparency on Real Estate
  - Unleashing the Potential of AEOI for Developing Countries
  - Facilitating the Use of Tax-Treaty-Exchanged Information for Non-Tax Purposes

# OUTCOME STATEMENT

# Overview of Outcome Statement

| Introduction | Part I. Amount A & the MLC | Part II. Amount B | Part III. STTR | Part IV. Implementation Support |
|---|---|---|---|---|
| Purpose & rationale of the Two-Pillar Solution | MLC | Framework for Amount B & further work | STTR model provision & commentary | Supporting implementation |
| Overview of Outcome Statement | Signing ceremony & transitional measures | Process for implementation | MLI & explanatory statement | |

# Pillar One: Amount A & the MLC

## Substantive Features

**Scope**
- Quantitative thresholds
- Specific Exclusions (Extractives, RFS, Defence)
- Autonomous Domestic Business Exemption (ADBE)
- Segmentation

**Nexus**

**Revenue Sourcing**

**Tax Base Determination**

**Profit Allocation**
- Allocation Formula
- Marketing and Distribution Profits Safe Harbour (MDSH)

**Elimination of Double Taxation**

**Tax Certainty**
- For Amount A (Scope, Advance, Comprehensive)
- Issues Related to Amount A

**Administration** (Amount A tax return, single paying entity…)

**Digital Services Tax and similar measures**

**MLC-specific issues**

# Pillar One: Amount A & the MLC

- An MLC is required to implement Amount A:
  - to ensure consistency and certainty, as well as supersede existing tax treaties to the extent necessary;
  - to avoid double taxation (and reconcile Amount A with the existing entity-based corporate tax system); and
  - to ensure the removal and standstill of DSTs and relevant similar measures.
- The MLC will be accompanied by:
  - an Explanatory Statement, which represents the agreed understanding of the negotiators with respect to the MLC;
  - an Arrangement of the Parties on the Application of Amount A Certainty (APAAC).

# Pillar One: Amount A & the MLC

- **Entry into Force** will occur on a date decided by Contracting Jurisdictions once 30 jurisdictions accounting for at least 60% of UPEs of the in scope MNEs have ratified
- After entry into force, a **Conference of the Parties** will be convened, with the power to address questions that arise on interpretation and implementation of the MLC, and to take decisions on selected issues identified in the MLC
- To prevent disruption in the ratification of the MLC, 138 jurisdictions have also agreed to **extend the existing standstill** to 2024 provided enough jurisdictions have signed the MLC by the end of 2023

# Pillar One – Amount B

- Baseline marketing and distribution activities are a very common fact pattern and represent large proportion of tax dispute cases.
- Amount B simplifies the existing transfer pricing rules for all taxpayers with transactions in scope.
- Amount B will increase tax certainty, reduce compliance and administrative costs and in particular assist low-capacity jurisdictions that often suffer from the absence of local market comparables.

# Pillar One – Amount B

## Applies to wholesale distributors

- Supersedes most other TP methods - only internal CUPs can supersede Amount B pricing
- Including buy/sell entities, commissionaires, sales agents
- Should not own unique and valuable intangibles nor assume economically significant risks
- Excludes distribution of services and commodities
- Segmentation and *de minimis* retail sales permitted

## Priced using a pricing matrix

- Taking account of industry, operating asset and expense intensity
- Includes features to address geographic differences where evidence based and in the case of data availability gaps
- With pricing adapted in cases of very low & high functionality

## Further work

- Ensuring an appropriate balance between a quantitative and qualitative approach
- The appropriateness of:
  - the pricing framework, including in light of the final agreement on scope,
  - the framework to the wholesale distribution of digital goods;
  - country uplifts within geographic markets; and
  - the criteria to apply Amount B utilising a local database in certain jurisdictions.

# Pillar Two: STTR – key components

1. STTR Model Treaty Provision & Commentary

2. Commitment to implement

- Developing countries can make a binding request to include in treaties with jurisdictions that have nominal tax rates below 9%

3. Process to assist with implementation

4. A multilateral instrument

- Open for signature 2 October 2023

# Pillar Two: STTR – key design features

## 1. Covered income

- The STTR applies to related party interest, royalties and a specified list of other payments, including all intra-group service payments.

## 2. Nominal tax rate below 9% - “top-up”

## 3. Exclusions and thresholds

## 4. Administration; ex post annualised charge

# Implementation Support

*"The Inclusive Framework also calls upon the Secretariat to prepare a comprehensive action plan to support the swift and co-ordinated implementation of the Two-Pillar Solution. In particular, the plan should offer additional support and technical assistance to enhance the capacity necessary for the implementation of the Two-Pillar Solution by developing countries. In this regard, the OECD should co-ordinate with relevant regional and international organisations."*

# Implementation Support (1)

- Focus on core **50** Inclusive Framework developing country members (non-OECD, non-G20, not financial centres).
- Support on Pillar One includes
  - **Understanding the MLC** - process for signing and ratifying;
  - **Amount B** - factors to consider when making submissions during the validation phase; once finalised, existing **34** technical assistance programmes on transfer pricing will include Amount B implementation;
  - **Various Partner Initiatives**, such as FTA Capacity Building Network – Pillars Knowledge Sharing Network, led by HMRC.

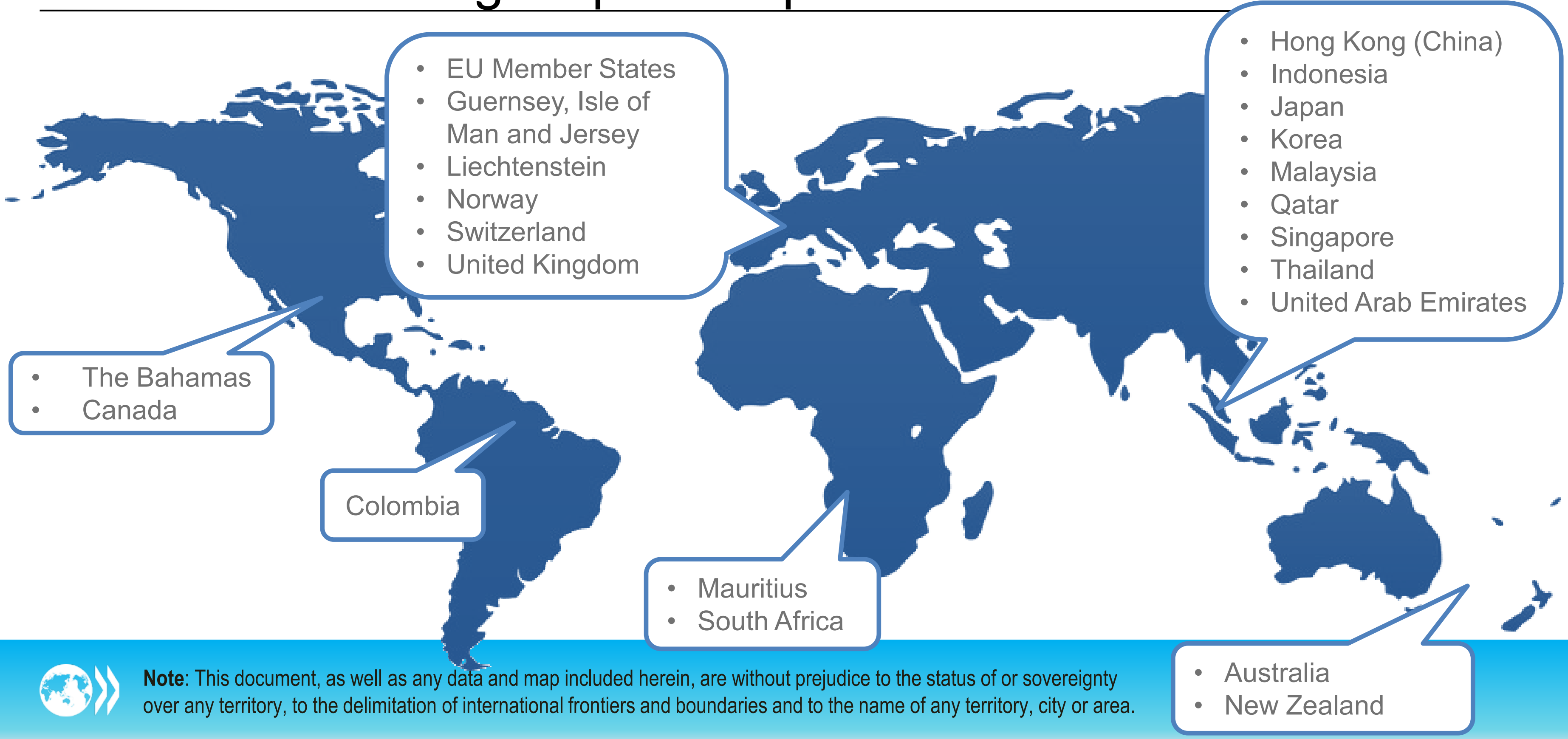
# Implementation Support (2)

- Support on Pillar Two includes
  - **Implementing the GloBE Rules**
    - Training material; regional workshops; bilateral assistance will be expanded beyond current **10** pilot countries on GloBE and Tax Incentives;
    - Niche role of OECD/UNDP Tax Inspectors Without Borders (TIWB).
  - **Implementing the STTR** - facilitating process to determine which tax treaties might be affected and process for signing and ratifying the STTR MLI.
- Coordination through Inclusive Framework Two-Pillar Implementation Stakeholder’s Forum - annual or bi-annual meetings.

# OTHER TWO-PILLAR SOLUTION UPDATES

# Pillar Two - GloBE Rules

## IF members taking steps to implement include:




**Note**: This document, as well as any data and map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

# Pillar Two – GloBE Rules

*Overview of the GloBE Information Return*

## GloBE Information Return

- **Single, comprehensive return** which reduces the burdens of having multiple, differing or duplicative information requirements in each implementing jurisdiction
- **Transitional simplified reporting requirements** that allow MNEs to report their GloBE calculations at a jurisdictional level
- **Targeted dissemination approach** where the more detailed information is made available to implementing jurisdictions where a Top-up Tax liability may arise

## Next steps - Administrative framework

- **Exchange of information**, XML Schema and Competent Authority Agreements
- **Administrative mechanisms** to facilitate coordination and consistent application of the GloBE Rules

# Pillar Two – GloBE Rules

*Overview of Safe Harbours and Administrative Guidance*

## Safe Harbours

- **QDMTT safe harbour -** permanent safe harbour for jurisdictions that introduce a Qualified Domestic Minimum Top-up Tax (QDMTT), which will make compliance and administration easier for MNEs and tax administrations.
- **UTPR safe harbour -** transitional safe harbour, which provides the UPE Jurisdiction with relief from the application of the UTPR for fiscal years commencing on or before the end of 2025.

## Administrative Guidance

- **Currency conversion rules** for GloBE calculations and for application of the GloBE Rules (e.g. monetary threshold)
- **Guidance on tax credits**, including treatment of transferable tax credits, timing of recognition of income from a qualified refundable tax credit.
- **Guidance on issues related to Substance Based Income Exclusion** and simplifications (e.g. employees and assets that are not always located in the jurisdiction)

# Economic Impact Assessment

## *Pillar One: Key findings*

- Around **USD 200 billion** profit in scope for 2021: rising over time
- Pillar One mainly reallocates taxing rights from investment hubs to market jurisdictions
  - 70% of all surrendered taxing rights from investment hubs
- Reallocation of taxing rights from lower-tax to higher-taxed jurisdictions raises revenue globally (**USD 17-31 billion** per year, based on 2021 data)
- Revenue gains distributed across all jurisdictions except for investment hubs, with higher revenue gains for smaller & lower-income countries (% of CIT)

# Economic Impact Assessment

## *Pillar Two: Key findings*

- Pillar Two will reduce global low-taxed profit by about 70%
- Pillar Two will also reduce effective tax rate differentials substantially
  - Reducing profit shifting incentives and improving the allocation of capital by increasing the importance of non-tax factors (e.g. education, infrastructure) on investment decisions
- Average effective tax rates will rise across all jurisdictions
- Increased effective tax rates and reduced profit shifting globally will mean increased tax revenues of up to **USD 200 billion** globally each year
  - Reduced profit shifting accounts for about $^1/_3$ of the revenue gains, with $^2/_3$ from GloBE rules and QDMTTs depending on implementation assumptions

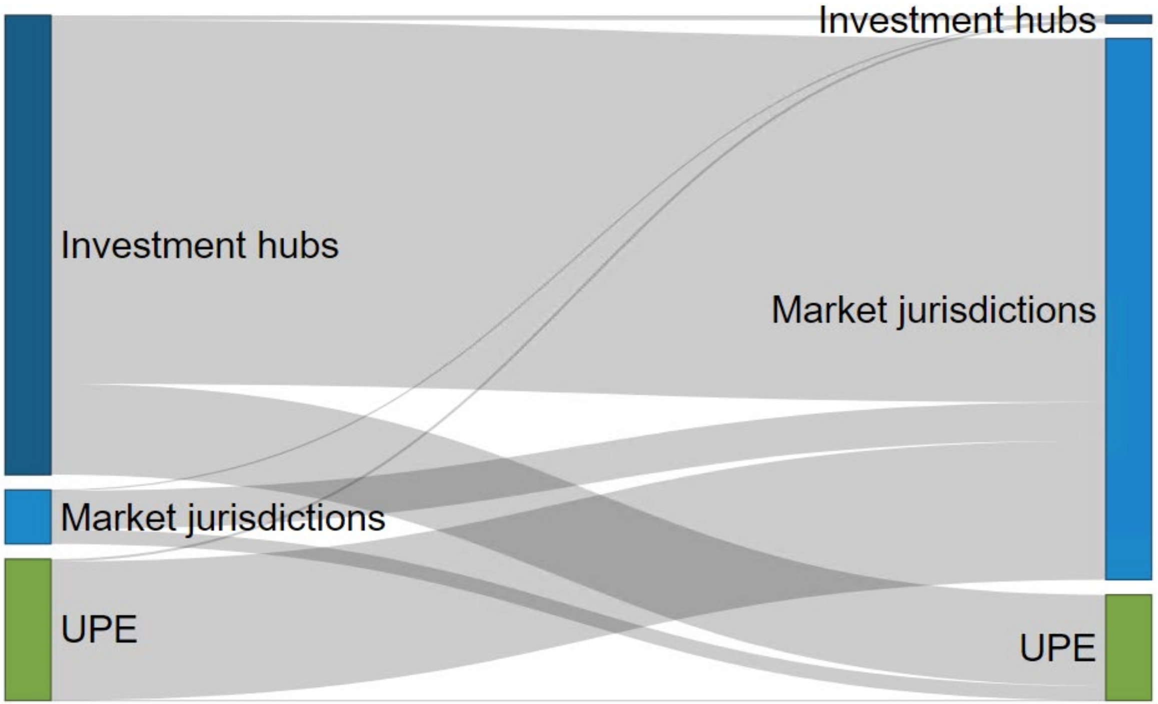
# Economic Impact Assessment

## *Pillar One: Impact on the allocation of taxing rights*

**Net reallocation of Amount A**

By jurisdiction type

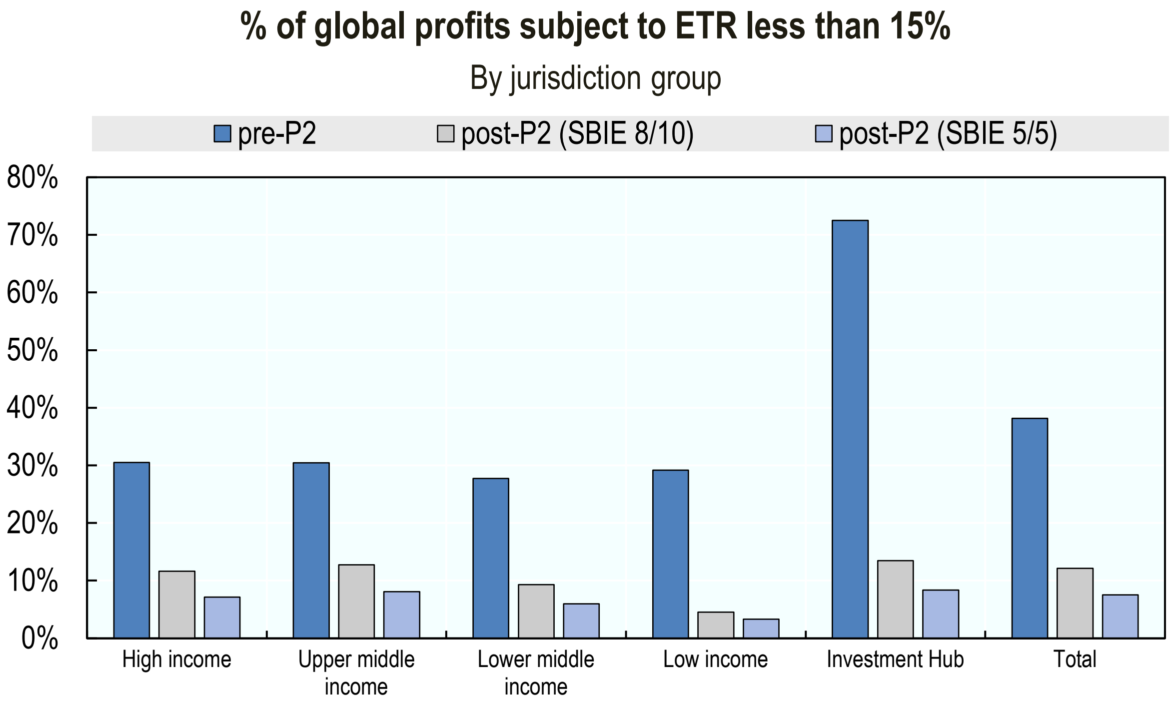
- Pillar One mainly reallocates taxing rights from investment hubs to market jurisdictions
- 70% of all surrendered taxing rights from investment hubs




**Note**: The UPE jurisdiction is defined uniquely for each MNE. The left column indicates the origin jurisdiction, and the right column indicates the destination jurisdiction. The thickness of the bands and the vertical bars correspond to the amount of profit on which new taxing rights are to be granted under Amount A. Note that e.g., if MNE #1 has its UPE in jurisdiction A, and MNE #2 has its UPE in jurisdiction B, an allocation to jurisdiction B of taxing rights on the profits of MNE#1 would be classified as a flow to a market jurisdiction.

# Economic Impact Assessment

## *Pillar Two: Impact on global low-tax profit*




- Pillar Two will reduce global low-taxed profit (i.e. profit with an ETR below 15%) by about 70%
- Pillar Two reduces the share of profit of in-scope MNEs that is low-taxed from 38% to 12% of all profit globally
- The effect is largest in investment hubs, where the share of low-taxed profit falls from 73% to 13%, and 8% after the SBIE transition period

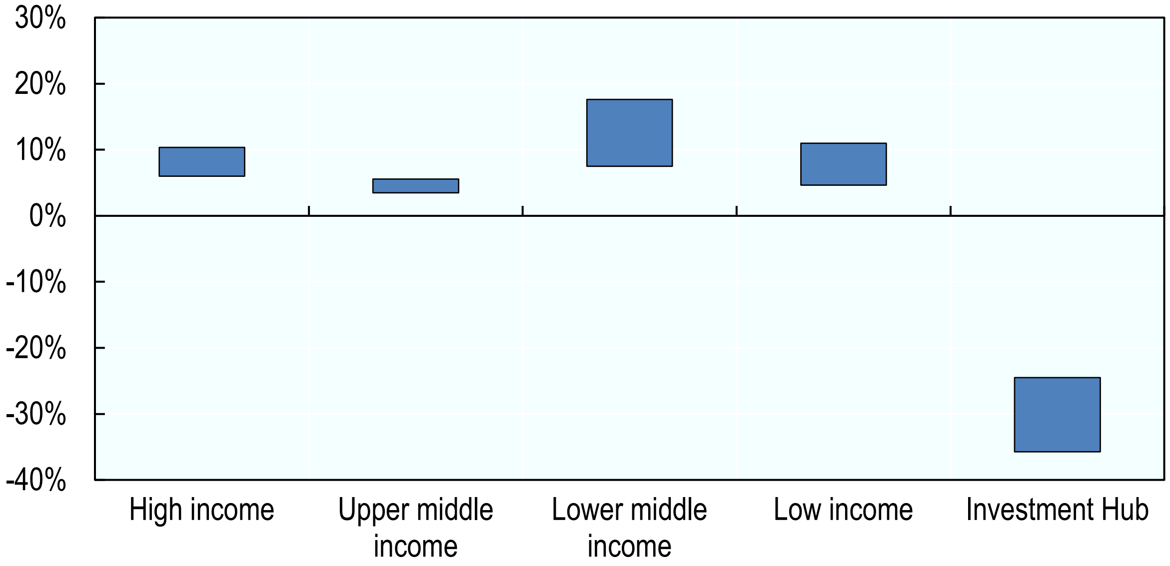
**Note**: Average shares of low-taxed profit (ETR < 15%) pre and post-Pillar Two under a 8%/10% SBIE (i.e. as in the first year of implementation). Data shown are averages across six scenarios with different assumptions regarding profit shifting reductions following the implementation of Pillar Two. Pre-Pillar Two profit assumes a profit distribution already impacted by Pillar One. Totals only consider subgroups with positive profits. Data includes non-IF member jurisdictions.

# Economic Impact Assessment

## *Pillar Two: Impact of reduced profit shifting*

**% Change in location of profit due to reduced profit-shifting**

(2017-2020 average, bounds)




- Lower tax rate differentials reduce MNEs' incentives to shift profit to low tax jurisdictions, which will lead to higher profits in other jurisdictions
- Estimated profits reported in investment hubs will be reduced by 25-36%
- An increase in estimated profits reported in other jurisdictions (e.g. 6-10% in high income countries and 5-11% in low income countries)

**Note**: Average changes in total profit by income group following the implementation of Pillar Two. Bounds are constructed around six scenarios with different assumptions regarding profit shifting reductions. Pre-Pillar Two profit assumes a profit distribution already impacted by Pillar One. Data includes non-IF member jurisdictions. Averages shown are weighted by profits.

# A LOOK AHEAD

# Next steps – Pillars

- On Amount A of Pillar One, resolution of a small number of specific items relating to the MLC on which a few jurisdictions have expressed concerns
  - The text will be published once it has been prepared for signature, with a signing ceremony to be organised by year-end and the objective of enabling the MLC to enter into force in 2025
- On Amount B of Pillar One, following the public consultation (ending 1 September 2023), we aim to agree a final Amount B report by year-end and incorporate key content into the OECD Transfer Pricing Guidelines by January 2024.
- On the GloBE Rules, we will continue providing technical assistance to implementing jurisdictions, initiate the peer review process and develop information exchange mechanisms to support the central filing of GloBE Information Return.
- The STTR will be opened for signature on 2 October 2023 and the text of the MLI will be published in time for this

# Towards a future agenda: Stakeholder perspectives

### Tax and inequality

Improving fairness in the tax system

Reducing underlying societal inequities

### Domestic resource mobilisation

CIT, PIT, wealth taxes, property taxes, consumption taxes, tax administration, trade-offs

### Tax and ESG

Incorporating tax into ESG frameworks

Measuring & understanding contributions

### Tax Transparency

Improving tax transparency for taxpayers and for tax systems

### Global Mobility

PIT; CIT

Wider implications, e.g. social security, pensions, competition

### Decluttering CIT


Post-Pillars fitness check

Simplify, eliminate or modify existing rules addressing similar risks

# THANK YOU